

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
ANDREW R. VARA
UNITED STATES TRUSTEE, REGIONS 3 & 9
Maggie McGee, Esquire
One Newark Center, Suite 2100
Newark, NJ 07102
Telephone: (973) 645-3014
Fax: (973) 645-5993
Email: Maggie.McGee@usdoj.gov

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

	:	Case No. 20-13167 (KCF)
In re:	:	Chapter 7
	:	
Raphael S. Gardee,	:	The Honorable Kathryn C. Ferguson
	:	
Debtor.	:	
	:	

**APPLICATION FOR THE ENTRY OF A CONSENT ORDER EXTENDING TIME TO
FILE A MOTION TO DISMISS CASE UNDER 11 U.S.C. § 707(b)(1) AND (3) AND
EXTENDING TIME TO FILE A COMPLAINT OBJECTING TO DISCHARGE UNDER
11 U.S.C. § 727 TO DECEMBER 17, 2020**

The United States Trustee, by and through counsel, in furtherance of his duties and responsibilities under 28 U.S.C. § 586 (a)(3) and (5), hereby respectfully submits this Application for the entry of the Consent Order Extending Time to File a Motion to Dismiss Case Under 11 U.S.C. § 707(b)(1) and (3) and Extending Time to File a Complaint Objecting to Discharge Under 11 U.S.C. § 727 to December 17, 2020.

In support of this Application, the United States Trustee (“UST”) respectfully represents as follows:

1. On February 26, 2020, Raphael S. Gardee (“Debtor”) filed a voluntary petition for relief under chapter 7 of Title 11 of the United States Code.

2. On February 27, 2020, Thomas J. Orr, Esq. was appointed as the chapter 7 trustee (“Trustee”). The meeting of creditors pursuant to 11 U.S.C. § 341(a) (“Meeting of Creditors”) was scheduled to be held on April 20, 2020, and the deadline to oppose discharge or dischargeability was initially set for June 19, 2020. The Meeting of Creditors was subsequently continued to May 6, 2020, and to May 14, 2020.

3. An independent review conducted by the Office of the United States Trustee of the Debtor’s Petition, Schedules, Statement of Financial Affairs, and Means Test identified this case as a possible candidate for dismissal pursuant to U.S.C. § 707(b)(1) and (3) or objection to discharge under 11 U.S.C. § 727.

4. On April 28, 2020, the UST, by and through counsel, issued a *Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Bankruptcy Case (or Adversary Proceeding)* (“Subpoena”) to the Debtor seeking information related to the Debtor’s income, monthly expenses, assets, liabilities, and business interests. Documents were due by May 15, 2020, pursuant to the Subpoena.

5. On June 17, 2020, the UST, by and through counsel, filed a Motion to Dismiss Case For Cause Under 11 U.S.C. § 707(a), or in the Alternative, a Motion to Extend Time To Object to Discharge and to Extend Time to File a Motion to Dismiss Case Under 11 U.S.C. §§ 707(b)(1) and (3) to August 18, 2020 (“Motion to Dismiss Alt. Extend Time”).

6. On July 15, 2020, the Office of the United States Trustee received certain documents in response to the Subpoena. A review of the Debtor’s response, however, reveals that certain documents remain outstanding.

7. On July 21, 2020, the Motion to Dismiss Alt. Extend Time was heard and an Order was entered extending the time to file a motion to dismiss for abuse under 11 U.S.C. § 707(b)(1) and (3) and to extend the time to file a complaint objecting to discharge under 11 U.S.C. § 727 to

October 18, 2020.

8. On September 18, 2020, the Trustee filed a Notice of Assets.

9. The Office of the United States has been in communication with Debtor's counsel regarding the production of documents and has secured the consent of Debtor's counsel to further extend the time to file a motion to dismiss for abuse under 11 U.S.C. § 707(b)(1) and (3) and to extend the time to file a complaint objecting to discharge under 11 U.S.C. § 727 for approximately 60 days to **December 17, 2020**.

10. Accordingly, the UST requests the entry of the attached proposed consent order as discovery is ongoing in this matter.

Respectfully submitted,
ANDREW R. VARA
UNITED STATES TRUSTEE
REGIONS 3 & 9

By: /s/Maggie McGee
Maggie McGee
Trial Attorney

DATED: October 14, 2020